

1 BEFORE THE BOARD OF MEDICAL EXAMINERS

2 IN THE STATE OF ARIZONA

3
4 In the Matter of

CASE NO. MD-97-0433

5 **MAX LIND, M.D.**

INVESTIGATION NO. 10916

6 Holder of License No. **4576**
7 For the Practice of Medicine
In the State of Arizona.

**FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER**

(Decree of Censure)

8
9 **INTRODUCTION**

10 This matter was considered by the Arizona Board of Medical Examiners
11 ("Board") at its public meeting on October 25, 2000. Max Lind, M.D. appeared before
12 the Board without legal counsel, for the purpose of the Board conducting a formal
13 interview, pursuant to the authority vested in the Board by A.R.S. § 32-1451(G). After
14 due consideration of the facts and law applicable to this matter, the Board voted to
15 issue the following findings of fact, conclusions of law and order.

16 **FINDINGS OF FACT**

- 17 1. The Board is the duly constituted authority for the regulation and control
18 of the practice of allopathic medicine in the State of Arizona.
- 19 2. Dr. Lind is the holder of License No. 4576 for the practice of medicine in
20 the State of Arizona.
- 21 3. Board Investigation No. 10916 was initiated after the Board was notified,
22 pursuant to a complaint from a 30-year-old female patient.
- 23 4. Investigation revealed that the patient began treatment with Dr. Lind
24 regarding her fourth pregnancy on December 3, 1993. The patient's
25 estimated delivery date was April 11, 1994.

- 1 5. At 37-38 weeks of estimated gestational age, an ultrasound of the
2 patient's fetus was obtained which demonstrated severe fetal intrauterine
3 growth retardation. At that time, Dr. Lind failed to evaluate fetal well
4 being by obtaining non-stress tests, contraction stress tests, and/or
5 consultation with a perinatologist.
- 6 6. On April 18, 1994, there was a non-reactive stress test. On April 19,
7 1994, a contraction stress test was reported as reactive and negative.
8 Dr. Lind decided to admit the patient for induction of labor on April 21,
9 1994.
- 10 7. On April 21, 1994, at approximately 1835 hours, approximately one hour
11 after labor induction had started, nursing staff noted the heart rate
12 pattern to be non-reactive. Dr. Lind was paged. He was in the facility in
13 another surgery procedure. The nurse staff was told Dr. Lind would be
14 instructed to call. At 1910 hours, nursing staff reported to Dr. Lind there
15 was no change in the fetal heart rate pattern, and Dr. Lind instructed to
16 insert prostaglandin gel. At 1930 hours, staff had noted difficulty in
17 obtaining a fetal heart tone, called for an ultrasound and notified Dr. Lind.
18 At 2025 hours, Dr. Lind arrived in the labor and delivery area, noted that
19 no fetal heart activity could be detected and diagnosed intrauterine death
20 of the fetus. The fetus was delivered approximately nine hours later.
- 21 8. No perinatal consultation to discuss the severe pneumonia complication
22 was performed by Dr. Lind. No neonatal consultation was conducted by
23 Dr. Lind even though the baby was at risk. Non-stress tests were not
24 frequent enough. It was not appropriate to continue the pregnancy past
25

1 the time of fetal lung maturity; the baby should have been delivered at 36
2 to 37 weeks.

3 **CONCLUSIONS OF LAW**

- 4 1. The Board of Medical Examiners of the State of Arizona possesses
5 jurisdiction over the subject matter hereof and over Max Lind, M.D.
- 6 2. The Board has received substantial evidence supporting the Findings of
7 Fact described above and said findings constitute unprofessional
8 conduct or other grounds for the Board to take disciplinary action.
- 9 3. The conduct and circumstances described above in paragraphs 3
10 through 9 constitute unprofessional conduct pursuant to A.R.S. § 32-
11 1401(25)(I) (conduct that the Board determines is gross malpractice,
12 repeated malpractice or any malpractice resulting in the death of a
13 patient), and A.R.S. § 32-1401(25)(II) "Conduct that the Board
14 determines is gross negligence, repeated negligence or negligence
15 resulting in harm to or death of a patient."

16 **ORDER**

17 Based on the foregoing Findings of Fact and Conclusions of Law,

18 IT IS HEREBY ORDERED that a Decree of Censure be issued to Dr. Lind for the
19 aforementioned unprofessional conduct and the failure to properly manage intrauterine
20 growth retardation, resulting in the death of an unborn baby.

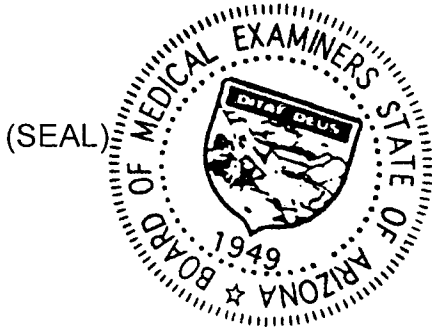
21 **RIGHT TO PETITION FOR REVIEW**

22 Dr. Lind is hereby notified that he has the right to petition for a rehearing. Pursuant
23 to A.R.S. § 41-1092.09, as amended, the petition for rehearing must be filed with the
24 Board's Executive Director within thirty (30) days after service of this Order and pursuant
25 to A.A.C. R4-16-102, it must set forth legally sufficient reasons for granting a rehearing.

1 Service of this Order is effective five (5) days after the date of mailing. If a motion for
2 rehearing is not filed, the Board's Order becomes effective thirty-five (35) days after it is
3 mailed to Dr. Lind.

4 Dr. Lind is further notified that the filing of a petition for rehearing is required to
5 preserve any rights of appeal to the Superior Court that he may wish to pursue.

6 DATED this 27 day of Dec, 2000.



BOARD OF MEDICAL EXAMINERS
OF THE STATE OF ARIZONA

10 By Tom Foutz
11 for CLAUDIA FOUTZ
Executive Director

12 ORIGINAL of the foregoing filed
13 this 28 day of December 2000, with:

14 The Arizona Board of Medical Examiners
15 9545 East Doubletree Ranch Road
16 Scottsdale, Arizona 85258

17 EXECUTED COPY of the foregoing mailed by
18 Certified Mail this 28 day of December 2000, to:

19 Max Lind, M.D.
20 532 West Northview
21 Phoenix, AZ 85021

22 COPY of the foregoing hand-delivered this
23 28 day of December, 2000, to:

24 Richard F. Albrecht, Esq., Assistant Attorney General
25 c/o Arizona Board of Medical Examiners
9545 E. Doubletree Ranch Road
Scottsdale, AZ 85258
Counsel for the Board

R. F. Albrecht